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BY ELECTRONIC MAIL AND ECF

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271 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Pedro Espada Jr. et al.
Cr. No. 10-985 (S-3) (FB)

Dear Counsel:

Defendants received the government's letter of February 13, 2012, providing notice of the government's intention to offer at trial expert testimony on non-profit corporations. Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G), defense counsel now request a detailed statement of what the expert will testify to, including what, if any, opinions he will give.

Under Rule 16(a)(1)(G), the government, upon the defendants' request, must provide to defendants "a written summary of any testimony that the government intends to use" under Federal Rules of Evidence 702 and 703. Among other things, this summary must describe (1) the witness's opinions, (2) the bases and reasons for those opinions, and (3) the witness's qualifications. Fed.R.Crim.P. Rule 16(a)(1)(G).

The government's February 13 letter provided a *curriculum vitae* for the expert, Marcus S. Owens, and notified defendants that Mr. Owens is an attorney who specializes in non-profit organizations and who will testify about the "rules, regulations, and practices" that govern non-profits in areas including the relationship between a charity and its for-profit subsidiary, lawful compensation of a charity's officers and income reporting requirements for such compensation.

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The government's letter does not satisfy the government's burden under Rule 16(a)(1)(G). Specifically, while the government's letter outlines the *areas* of the proposed expert witness' testimony, it does not include a "summary" of this proposed testimony.

Pursuant to Rule 16(a)(1)(G), please provide the following information:

- What rules, regulations, and practices, will the expert testify about?
- What are his opinions relating to those rules and what is the basis for those opinions?
- What laws, rules or regulations will he testify about and what in summary will he say about these laws, rules or regulations?
- What opinions will he express concerning compensation in this case and what is the basis of his opinions?
- What opinions will he express concerning the relationship between a charity and its for-profit subsidiary and what is the basis for his opinions?
- What, if any, other areas will the expert testify about and what, in summary, will be his testimony?

Additionally, please provide us with all documents upon which the expert relied, any documents which the expert provided to the government, any reports created or relied upon by the expert, any treatises upon which he will rely, and any 3500 material with respect to the proposed expert.

Sincerely,

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